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			ART UNIT 3621	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/942,047

Applicant(s)

KHAN ET AL.

Examiner

JOSHUA MURDOUGH

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-6, 8-16, 18-42, 44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 8-16, 18-42, 44 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-884)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Page No(s)/Mail Date 11/4/2008

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendments received 15 January 2009.
2. This application has been assigned paper number 2009042822 for reference purposes only.
3. Claims 1, 3-6, 8-16, 18-42, 44, and 45 are pending and have been examined.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. §1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:
 - a. "a transaction associated with a single user" in at least claim 1;
 - b. "instance of the transaction" in at least claim 1; and
 - c. "e-commerce form" in at least claim 45.
5. This objection is not to be confused with a rejection under 35 U.S.C. 112 1st paragraph for new matter. The authority for these objections comes from the rules as noted in MPEP § 608.01(o): "Note that examiners should ensure that the terms and phrases used in claims presented late in prosecution of the application (including claims amended via an examiner's amendment) find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description, see 37 CFR 1.75(d)(1)." Applicant should (1) amend their specification to include the above phrases OR (2) amend the

claims so the phrases correspond to the ones used in the specification. Either way, Applicant is reminded that no new matter may be added.

Claim Rejections - 35 USC § 112 2nd Paragraph

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 3-6, 8-16, 18-42, 44, and 45 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

d. Claims 1, 16, 31, 33, 41, and 42 recite the phrase, “another instance of the transaction.” In each of the claims, there is no first or initial “instance of the transaction” present. Therefore, one of ordinary skill in the art would not understand the metes and bounds of these claims.

e. Claims 11, 12, 26, 27, 38, and 42 recite the phrase, “the other instance of the transaction.” It is unclear what instance is being referred to by this phrase. It could be referring to the previously mentioned “another instance of the transaction.” In which case, it should be reworded to make this connection clear. However, since the only instance previously discussed in each situation is the “another instance of the transaction,” it would be equally reasonable to interpret “the other instance of the transaction” as being the one not discussed. In this interpretation, there is a lack of antecedent basis for the phrase.

- f. Both of the above issues (7 and 8) arise from awkward naming conventions. The Examiner suggests a numerical designation for the instances (*e.g.* "first," "second," etc.) to clarify which is being discussed.
- g. Moreover, an "instance of a transaction" does not make sense. A transaction has been defined as "an act, process, or instance of transacting." See definition below. How there can be multiple instances of an instance would not be understood by one of ordinary skill in the art. An instance has been defined as "an individual illustrative of a category or brought forward in support or disproof of a generalization." See definition below. Using these definitions, Applicants' claims recite plurality of an individual. To alleviate this issue, a term such as "execution" or "processing" may better describe what Applicants are attempting to claim.
- h. Thus, "a first execution of the transaction" and "a second execution of the transaction" would significantly improve the clarity and understanding of these claims. As always, Applicants are advised to check for support in the original disclosure before making any amendment to ensure that no new matter is introduced.
8. The Examiner finds that because particular claims are rejected as being indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied as much as practically possible.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 3-6, 8-16, 18-42 and 44, as understood by the Examiner, are rejected under 35 U.S.C. § 102(e) as being anticipated by Howard (US 6,278,966).

11. As to claims 1, 16, 31, and 33 Howard shows:

- i. A method for carrying out a computer-implemented transaction, comprising:
- j. storing in memory a transaction pattern reflecting a transaction (plurality stored as historical data **122**) associated with a single user (a plurality is multiple singles); and
- k. executing the transaction pattern to carry out another instance of the transaction (executed as a script, C 9, LL 22-23);
- l. wherein the transaction pattern includes a record of: information submitted by the single user ("clicking on clickable resources," C 6, L 58), user actions taken by the single user ("what they do," C 6, LL 61-63), system actions taken by a system in response to the information ("which pages are accessed," C 6, L 66) and the user actions in order to generate results (how they got to the results, "previous URL," C 7, L 5), and the results that are sent to the single user (files downloaded, C 6, L 67);

- m. wherein the storage of the transaction pattern includes storage of records of a navigation of the single user during the transaction (“which pages are accessed,” C 6, L 66);
 - n. wherein the transaction pattern further includes information submitted by the single user, in each form and in each step of a login (login script, C 9, LL 24-25) and account access process (C 9, LL 22-23).
- 12. As to claims 3, 18, and 34, Howard further shows:
 - the transaction pattern further includes a record of the actions taken by the system which enable access of the single user to data (providing the web pages, C 6, L 66), and actions enabled by the data to retrieve content (login enables access, C 9, LL 24-25 & files downloaded, C 6, L 67).
- 13. As to claims 4 and 19, Howard further shows:
 - the storage of the transaction pattern includes the storage of records relating to an interface presented to the single user (the webpage and the browser provide the interface; C 6, L 66 & C 7, LL 1-2).
- 14. As to claims 5 and 20, Howard further shows:
 - the storage of the transaction pattern includes the storage of records relating to the submission of information by the single user (account information is needed to login, C 9, LL 24-25).

15. As to claims 6 and 21, Howard further shows:

the storage of the transaction pattern includes the storage of parameters required to complete the transaction (account identifier, C 9, LL 22-23).

16. As to claims 8, 23, and 35, Howard further shows:

the storage of the transaction pattern includes the storage of information returned to the single user by the system (account balance, C 9, L 14).

17. As to claims 9, 24, and 36, Howard further shows:

the storage of the transaction pattern includes the storage of information selected by the single user ("what they do," C 6, LL 61-63).

18. As to claims 10, 25, and 37, Howard further shows:

the execution of the transaction pattern includes retrieval of the transaction pattern by at least one of an automated agent (online emulator **124**) and a programmable agent (Offline Emulator, **206**; programmed in part by flow constraints, **204**).

19. As to claims 11 and 26, Howard further shows:

the execution of the transaction pattern includes submission of required parameters during the other instance of the transaction (account information, C 9, LL 22-23).

20. As to claims 12, 27, and 38, Howard further shows:

the execution of the transaction pattern involves automatic navigation during the other instance of the transaction ("click-by-click," C 8, L67).

21. As to claims 13 and 28, Howard further shows:

the execution of the transaction pattern includes retrieval of content (files downloaded, C 6, L 67).

22. As to claims 14, 29, and 39, Howard further shows:

the execution of the transaction pattern includes relaying content to the single user (files downloaded, C 6, L 67).

23. As to claims 15, 30, and 39, Howard further shows:

the execution of the transaction pattern includes recognizing a state of a remote application ("program status results" C 5, LL 66-67).

24. As to claim 22, Howard further shows:

the storage of the transaction pattern includes the storage of records relating to the navigation of the single user during the transaction ("which pages are accessed," C 6, L 66).

25. As to claim 32, Howard further shows:

the remote application is an electronic commerce application (financial services are part of electronic commerce, C 9, L 13).

26. As to claim 41, Howard shows:

- o. A method for carrying out a computer-implemented electronic commerce (e-commerce) transaction, comprising:
 - p. storing in memory a transaction pattern reflecting a transaction (plurality stored as historical data 122) associated with a single user (a plurality is a collection of individuals), wherein the transaction pattern includes:
 - q. creation and actions associated with forms presented in a web-interface with which the single user submits information (C 6, LL 32-36);
 - r. information submitted by the single user, in forms presented in an e-commerce flow ("clicking on clickable resources," C 6, L 58 & C 6, LL 32-36);
 - s. an internal process whereby the submitted information is sent to servers and databases (C 6, LL 32-36) of an e-commerce site (Financial services web site, C 9, L 13);
 - t. navigation of the single user within the e-commerce process ("which pages are accessed," C 6, L 66);
 - u. system actions taken by a system in response to the information ("which pages are accessed," C 6, L 66) and the creation and actions in order to generate results (how they got to the results, "previous URL," C 7, L 5); and
 - v. the results returned by the e-commerce site once the submitted information has been processed (files downloaded, C 6, L 67); and

- w. executing the transaction pattern to carry out the another instance of transaction(executed as a script, C 9, LL 22-23);
 - x. wherein the transaction pattern further includes information submitted by the singleuser, in each form and in each step of a login (login script, C 9, LL 24-25) and account access process (C 9, LL 22-23).
27. As to claim 42, Howard shows:
- y. A method for carrying out a computer-implemented transaction, comprising:
 - z. recording information submitted by a single user as part of a transaction ("clicking on clickable resources," C 6, L 58) associated with a single user (plurality stored as historical data **122**, each of the plurality is associated with a single user);
 - aa. recording user actions taken by the single user as part of the transaction ("what they do," C 6, LL 61-63);
 - bb. recording system actions taken by a system in response to the information ("which pages are accessed," C 6, L 66) and the user actions in order to generate results as part of the transaction (how they got to the results, "previous URL," C 7, L 5);
 - cc. recording the results that are sent to the single user as part of the transaction(files downloaded, C 6, L 67);
 - dd. recording actions taken by the system which enable the single user to access data (providing the web pages, C 6, L 66);
 - ee. recording actions enabled by the data to retrieve content (login enables access, C 9, LL 24-25 & files downloaded, C 6, L 67);

- ff. generating a transaction pattern based on the recorded information (CC 6-7, LL 60-7);
- gg. storing the transaction pattern in memory (plurality stored as historical data **122**), including:
 - hh. storing records relating to an interface presented to the single user (the webpage and the browser provide the interface; C 6, L 66 & C 7, LL 1-2);
 - ii. storing records relating to the submission of information by the single user (account information is needed to login, C 9, LL 24-25);
 - jj. storing parameters required to complete the transaction (account identifier, C 9, LL 22-23);
 - kk. storing records of a navigation of the single user during the transaction (“which pages are accessed,” C 6, L 66 & “clicking on clickable resources,” C 6, L 58);
 - ll. storing records relating to the navigation of the single user during the transaction (“which pages are accessed,” C 6, L 66);
 - mm. storing information returned to the single user by the system (account balance, C 9, L 14);
 - nn. storing information selected by the single user (“what they do,” C 6, LL 61-63);
 - oo. executing the transaction pattern to automatically carry out another instance of the transaction (login script, C 9, LL 24-25) upon receiving the single user request for the transaction (resulting from a request to login, C9, LL 23-24), including:

- pp. retrieving the transaction pattern using at least one of an automated agent (online emulator **124**) and a programmable agent (Offline Emulator, **206**; programmed in part by flow constraints, **204**);
 - qq. recognizing a state of a remote application (program status results" C 5, LL 66-67);
 - rr. submitting required parameters during the other instance of the transaction (account information, C 9, LL 22-23);
 - ss. performing automatic navigation during the other instance of the transaction ("click-by-click," C 8, L67); retrieving content (files downloaded, C 6, L 67); and
 - tt. relaying content to the single user (files downloaded, to the user, C 6, L 67);
- wherein the transaction pattern further includes information submitted by the single user, in each form and in each step of a login (login script, C 9, LL 24-25) and account access process (C 9, LL 22-23).

28. As to claim 44, Howard further shows:

the transaction pattern further includes an internal process (emulating, Figure 5A), whereby submitted information is sent to servers and databases (C 6, LL 32-36) of a portfolio account site of the single user (Financial services web site, C 9, L 13).

29. As to claim 45, Howard further shows:

the information submitted by the single user is submitted via an e-commerce form (C 6, LL 32-36).

However, Howard does not expressly teach the specific data recited in claim 45. Nevertheless, the differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited. The recited method steps would be performed the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claim 45, as understood by the Examiner, is alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Howard in view of Ukigawa (US 2001/0021925).

32. While it is the Examiner's primary position that the name, credit card number, and address are non-functional descriptive material, the Examiner provides the following alternate grounds of rejection in case a reviewing body determines otherwise.

33. Howard discloses as discussed above in regards to claim 1.

34. Howard further shows:

the information submitted by the single user is submitted via an e-commerce form (C 6, LL 32-36).

35. Howard does not expressly show:

the information including a name of the single user, credit card information associated with the single user, and a shipping address of the single user.

36. However, Ukigawa shows a user's name, address, and credit card number being submitted via a form on a website [0006]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Howard to add the particular data to the form being submit to the website in order to enable the purchase transaction as described by Ukigawa [0006].

Definitions

The Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his interpretation of the claims.¹ Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

Associate: "4 : to bring together or into relationship in any of various intangible ways (as in memory or imagination)." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

¹ While most definitions are cited because these terms are found in the claims, the Examiner may have provided additional definitions to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

Form: "A structured document with spaces reserved for entering information and often containing special coding as well." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

Instance: "2 b: an individual illustrative of a category or brought forward in support or disproof of a generalization." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Reflect: "3 a: to bring about a specified appearance or characterization." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Remote: "Not in the immediate vicinity, as a computer or other device located in another place (room, building or city) and accessible through some type of cable or communications link." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

Transaction: "2 a: an act, process, or instance of transacting." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

To: "2a -- used as a function word to indicate purpose, intention, tendency, result, or end." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Response to Arguments

37. Applicant's arguments filed 15 January 2009 have been fully considered but they are not persuasive.

38. Applicants argue:

39. "Applicant respectfully asserts that the excerpts from Howard relied on by the Examiner only disclose 'which pages are accessed' (Col. 6, line 66) and 'the previous URL that they Viewed' (Col. 7, line 5)" (Remarks, Page 11, Paragraph 4).

40. Examiner's response:

41. The Examiner respectfully submits that Howard discloses more than what is asserted by Applicant. In columns 6-7, lines 60-6, Howard discloses the following:

"Web visitation logs record the actions of every visitor to the web site, gathering historical data on who visits the site and what they do there. This includes reports such as the number of users per day and per hour, what times are most active, how much data is accessed from the site per time period and per visit, which pages are accessed most frequently, which files are downloaded most frequently, details on where users come from geographically, what browsers they use, and what computer platforms they own. If "referral logs" are enabled, it can also be recorded where the user originates within the internet domain space, indicating the previous URL that they viewed immediately prior to entering the current site."

42. This passage shows that user actions ("who visits the site and what they do there"), system actions ("which pages are accessed," In order to view a page, a user has to direct a browser on a computer to the address, either through clicking a link or entering a URL. Then,

the computer retrieves the data from the server at the specified address in order to display it to the user.) and information submitted by the user (As noted above, the user has to submit addresses to go to a web site.) are recorded by Howard.

43. Additionally, the details about how the various data is used are not claimed. As data is not a method step, the specific data needs to be used in order for it not to be considered non-functional descriptive material. See MPEP § 2106.01.

44. Applicants argue:

45. “[S]imply mentioning a script that executes a transaction against an account and a login script, as in Howard, does not meet applicant's claimed technique ‘wherein the transaction pattern further includes information submitted by the single user, in each form and in each step of a login and account access process’ (emphasis added), as claimed” (Remarks, Page 12, Paragraph 3).

46. Examiner's response:

47. A login is inherently for a single entity or account. Additionally, a login is understood to contain at least an identifier (username, account number, ID, etc.) and a password. This data must be input in order to process the login. This data is inserted into a set of data fields (a form, see definition above).

48. While the Examiner agrees that Howard is directed toward the execution of multiple simulated logins, each login must be individually executed.

49. Applicants argue:

50. “[T]he identical invention must be shown in as complete detail as contained in the claim”

(Remarks, Page 12, Paragraph 4).

51. Examiner's response:

52. The Examiner agrees that for anticipation the invention must be shown as claimed.

While Applicant may have intended the claims to be interpreted in a particular manner, the Examiner is not bound to that interpretation when examining the claims. The Examiner is entitled to the broadest reasonable interpretation. “During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow” (MPEP § 2106 II (C)). This often results in references being applied that do not show Applicant’s intended interpretation of the invention. This is not an examination error. Instead, it should indicate to the Applicant that the words and phrases used may not concisely describe their invention as intended. In many instances, this also indicates that the Examiner has been unable to find Applicant's invention as they intended it to be interpreted. Thus, clarifying the issues in the claims that have been interpreted differently may result in a determination of patentability.

53. Applicants argue:

54. “Howard only discloses an emulated visit to a page in which the page is traversed based on probability distributions. Clearly, disclosing traversal of a page based on probability distributions, as in Howard, does not meet, and even leaches away from, applicant's claimed

‘transaction pattern reflecting a transaction associated with a **single** user’ (emphasis added), as claimed” (Remarks, Page 13, Paragraph 4).

55. Examiner's response:

56. The emulation as disclosed by Howard “reflects” the actions of a plurality of single users accessing the web site. See definition of “reflect” above. The Examiner believes that Applicant intends to claim set steps being recorded and those exact steps being executed again at a later time. If Applicant clears up the “instance” issue and replaces “reflecting” in an appropriate manner, the intended interpretation of the claims may be required. This would likely overcome the Howard reference and further the progress toward patentability. The Examiner believes that “detailing” in place of “reflecting” would better fit with Applicant’s intentions.

57. Applicants argue:

58. “However, simply teaching frequently accessed pages and frequently downloaded files, in addition to generally mentioning a login script, as in Howard, fails to even suggest a technique ‘wherein the transaction pattern further includes a record of the actions taken by the system which enable access of the user to data, and actions enabled by the data to retrieve content’ (emphasis added), as claimed” (Remarks, Page 14, Paragraph 2).

59. Examiner's response:

60. Logging in is a user action. It enables access to data including web pages which contain content. If Applicant intended something more specific with this claim, the Examiner suggests making it more clear in the claim.

61. Applicants argue:

62. "Applicant respectfully asserts that the excerpt relied upon by the Examiner merely teaches an 'output module for outputting or displaying program status results on a graphic display, print device or storage medium.' Clearly, simply disclosing outputting program status results, as in Howard, fails to even mention 'a remote application,' let alone specifically disclose that 'the execution of the transaction pattern includes recognizing a state of a remote application' (emphasis added), as claimed" (Remarks, Page 14, Paragraph 4).

63. Examiner's response:

64. In the paragraph cited by the Examiner, there is the further recitation of "[t]he end user unit 114 may include a processing unit (not shown), such as a microprocessor or other processing machine, communicatively coupled to a storage unit" (C 5, LL 54-56) Another processing machine being communicatively coupled indicates that it is remote. See definition of "remote" above. In order to display the program status, the state has to be recognized.

65. Applicants argue:

66. “Still yet, applicant brings to the Examiner’s attention the subject matter of new Claim 45 below, which is added for full consideration:

‘wherein the information submitted by the single user is submitted via an e-commerce form, the information including a name of the single user, credit card information associated with the single user, and a shipping address of the single user’ (see Claim 45)”
(Remarks, Page 15, Paragraph 1).

67. Examiner’s response:

68. Applicant is again reminded that when the details about how the various data is used are not claimed, it is considered non-functional descriptive material. As the data is not a method step, the specific data needs to be used in order for it not to be considered non-functional descriptive material. See MPEP § 2106.01. The recitation of inserting the data into the form and submitting the form including the data would be given more weight. However, the Examiner has provided a reference for this data.

69. Again, the Examiner notes that the anticipation under the Howard reference, and possibly the reference all together, can be overcome with an appropriate amendment or amendments. Applicant’s invention as described in the instant specification is sufficiently distinct from that of Howard. However, it is improper for the Examiner to read limitations from the specification into the claims. See MPEP § 2106 II (C). Thus, Applicant must place the necessary limitations into the claims to overcome the reference.

70. Active use of the claimed data and clarification of the other issues noted are strongly suggested by the Examiner. However, as always, it is up to Applicant what is claimed. If Applicant believes an interview would help with the drafting of amended claims, the Examiner, is usually inclined to give interviews after final.

Conclusion

71. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

72. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

73. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

74. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

75. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621